



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Peter Dwyer and
William Hoferer, Morristown

Administrative Appeals

CSC Docket Nos. 2021-1477
2021-1565

ISSUED: JULY 26, 2021 (RE)

The Division of Agency Services (Agency Services) on behalf of Morristown, requests that Peter Dwyer and William Hoferer be provided with retroactive regular appointments to the title of Fire Fighter, effective August 21, 2017, and that they be considered eligible for the examination for Fire Captain (PM2336C), Morristown.

By way of background, official records indicate that Peter Dwyer and William Hoferer were permanently appointed to Fire Fighter on July 10, 2018. The examination for Fire Captain (PM2336C), Morristown was announced with a closing date of April 30, 2021 and was open to Fire Fighters with three years of continuous permanent service in that title, or to Fire Officials UFD with one year of continuous permanent service in that title. Dwyer and Hoferer both filed applications for the examination, and were both were found to lack the required amount of permanent status in a title to which the examination was open as they had less than three years of service as Fire Fighters. Thereafter, the appointing authority for Morristown contacted Agency Services as it desired to correct their employment records. Specifically, the appointing authority advised that there was an administrative delay when appointing Dwyer and Hoferer from the eligible list (M1553T), and both candidates were hired effective August 21, 2017. In support, it submitted several Personnel Action Reports, a statement from the appointing authority, and certification request forms, including a request for certification signed July 31, 2017, in advance of the aforementioned date of hire. That request was unable to be processed at that time due to an administrative delay in recording the disposition of a previous certification

CONCLUSION

N.J.A.C. 4A:4-1.10(c) provides that the Civil Service Commission may order a retroactive appointment date due to an administrative error, administrative delay or other good cause.

In the instant matter, there is no basic factual dispute but, rather, the central issue involves providing retroactive regular appointments to the title of Fire Fighter, effective August 21, 2017, for Dwyer and Hoferer. Specifically, the appointing authority advised that there was an administrative delay when appointing Dwyer and Hoferer from the eligible list (M1553T), and both candidates were hired effective August 21, 2017. In support, it submitted several Personnel Action Reports, a statement from the appointing authority, and certification request forms, including a request for certification signed July 31, 2017, in advance of the aforementioned date of hire. That request was unable to be processed at that time due to an administrative delay in recording the disposition of a previous certification. The previous certification (OL170618) was issued on May 15, 2017 and was returned on June 13, 2017. However, as observed in the comments of the certification record, necessary documentation was missing for the disposition of the certification. The documentation pertained to the removal of a different candidate on the list, and an effort was made to resolve the outstanding certification. The appointing authority eventually submitted the required documentation and the certification was ultimately closed on June 28, 2018.

The eligible list was certified three times. Certification (OL160315) resulted in the removal of the second ranking eligible. Certification (OL170618) resulted in the removal of the first ranking eligible and the appointment of the third ranking eligible. The appointing authority subsequently requested another certification on July 10, 2018 and certification (OL180705) was issued on the same date. This certification allowed for the permanent appointments of Hoferer and Dwyer effective July 10, 2018, nearly a full year after their actual appointment date. A review of the eligible list for (M1553T) finds that Hoferer and Dwyer ranked five and six, respectively. The certification (OL180705) resulted in the removal of the fourth ranking eligible and the appointments of Hoferer and Dwyer. Therefore, Hoferer and Dwyer would have been eligible for appointment if the certification could have been requested on time, or if alternatively, certification (OL170618) had been amended to record their appointments, effective August 21, 2017.

Dwyer and Hoferer have been performing the duties of Fire Fighter since August 21, 2017 and they are reachable under the “rule of three” in accordance with *N.J.A.C.* 4A:4-4.8. Due to an administrative delay in disposing the previous certification, a subsequent request for certification at the time it approved them for appointment could not be processed. Under these circumstances, Dwyer and

Hoferer should receive regular appointment dates to the title of Fire Fighter retroactive to August 21, 2017.

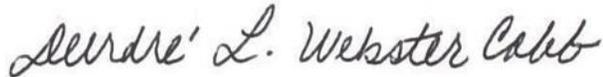
Additionally, Dwyer and Hoferer each have the required three years of continuous permanent service as Fire Fighter that is required for the examination for Fire Captain (PM2336C), Morristown. Therefore, their applications should continue to be processed.

ORDER

Therefore, it is ordered that these requests be granted, and Peter Dwyer and William Hoferer be provided with a regular appointment as Fire Fighter, effective August 21, 2017, and their personnel records be amended in accordance with this decision. Additionally, the applications for Dwyer and Hoferer for Fire Captain (PM2336C), Morristown should continue to be processed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21ST DAY OF JULY, 2021



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